



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33939936

Date: SEPT. 20, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, an investment fund manager, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with “extraordinary ability.” *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate “sustained national or international acclaim” and extensively document recognition of their achievements in their fields. *Id.*

The Director of the Texas Service Center denied the petition. The Director concluded that, in attempting to establish extraordinary ability, the Petitioner met one of ten evidentiary requirements – two less than needed for a final merits determination. On appeal, the Petitioner contends that he submitted evidence not only of his authorship of scholarly articles in his field as the Director found, but also of:

- Published materials about him;
- His performance in a leading role for an organization with a distinguished reputation; and
- His commandment of a high salary for his services.

The Petitioner bears the burden of demonstrating eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that, by submitting evidence of published materials about himself and his performance in a leading role for an organization with a distinguished reputation, he has met two additional evidentiary criteria. We will therefore withdraw the Director’s decision and remand the matter for a final merits determination consistent with the following analysis.

I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that they:

- Have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act. The term “extraordinary ability” means expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

Evidence must demonstrate a noncitizen’s receipt of either “a major, international recognized award” or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).¹ If a petitioner meets either standard, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination as to whether the record, as a whole, establishes sustained national or international acclaim and recognized achievements placing them among the small percentage at their field’s very top. *Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010); *see generally* 6 *USCIS Policy Manual* F.(2)(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The record shows that the Petitioner, a Chinese native and citizen, earned a bachelor’s degree in statistics and a master’s degree in business administration. He has worked in the securities research field for more than 30 years. He currently serves as general manager and fund manager of a Chinese private equity firm that he co-founded in 2015. The firm began managing investments worth 30 million yuan, or about \$4.2 million. It now oversees funds totaling 1.8 billion yuan, or about \$254.6 million.

The Petitioner states that he seeks to continue working in the securities investment and fund management industry in the United States. Because of his expertise, he states that he can help both U.S. investors buy Chinese securities and Chinese investors select U.S. securities.

The record does not demonstrate – nor does the Petitioner claim – his receipt of a major internationally recognized award. He must therefore meet at least three of the ten evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director’s finding that the Petitioner satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(vi) by submitting evidence of his authorship of scholarly articles in his field. The Petitioner also contends that he documented:

- published materials about him relating to his work in his field under 8 C.F.R. § 204.5(h)(3)(iii);
- his performance in a leading role for an organization with a distinguished reputation under 8 C.F.R. § 204.5(h)(3)(viii);
- and, under 8 C.F.R. § 204.5(h)(3)(ix), his commandment of a high salary or other significantly high remuneration for his services as compared to others in his field.

A. Published Material About the Petitioner

This criterion requires “[p]ublished material about the [noncitizen] in professional or major trade publications or other major media, relating to [their] work in the field for which classification is

¹ If an evidentiary standard does not “readily apply” to a petitioner’s occupation, they may submit “comparable evidence” to establish eligibility. 8 C.F.R. § 204.5(h)(4).

sought.” 8 C.F.R. § 204.5(h)(3)(iii). “Such evidence shall include the title, date, and author of the material, and any necessary translation.” *Id.*

When adjudicating this requirement, USCIS first determines whether the published material relates to a petitioner and their specific work in the field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). Evidence may include copies of print or online newspaper or magazine articles, popular or academic journal articles, books, textbooks, similar publications, or a transcript of professional or major audio or video coverage of a petitioner and their work. *Id.* The Agency then determines whether a publication qualifies as a professional, major trade, or major media publication. *Id.* When evaluating professional, major trade, or major media publications, relevant factors include: for professional and major trade publications, the intended audience; and, for major trade publications and other major media, the publications’ relative circulation, readership, or viewership. *Id.*

The Petitioner submitted copies of 2022 articles about him in Chinese business magazines and on an online news site. The Director acknowledged that the articles feature the Petitioner and relate to his work in the securities and investment field. The Director, however, found that the Petitioner did not demonstrate the materials’ publication in professional or major trade publications or other major media.

The Petitioner submitted credible information that the online news site on which an article about him appeared ranks as the ninth most popular web portal site in China and the fourth most popular Chinese news site. The site has at least 10 million regular readers. We therefore find that the Petitioner has submitted evidence of published materials about him in major media. *See generally* 6 *USCIS Policy Manual* F.(2)(B) (“[A]lthough some of the regulatory language relating to evidence occasionally uses plurals, it is entirely possible that the presentation of a single piece of evidence in a specific evidentiary category may be sufficient.”) We will therefore withdraw the Director’s contrary finding.

B. Performance in a Leading or Critical Role for a Distinguished Organization

To meet this requirement, a petitioner must submit “[e]vidence that [they have] performed in a leading or critical role for organizations or establishments that have a distinguished reputation.” 8 C.F.R. § 204.5(h)(3)(viii).

USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). A leading role means that a petitioner is or was a leader within an organization. *Id.* In contrast, a critical role means a petitioner “contributed in a way that is of significant importance to the outcome of the [relevant] organization’s . . . activities.” *Id.*

USCIS then determines whether an organization has a distinguished reputation. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). Relevant factors include not only an organization’s relative size or longevity but also the scale of its customer base or relevant media coverage. *Id.*

The record supports the Director’s finding that the Petitioner documented his performance in a leading role at his private equity firm. The Director, however, found insufficient evidence of the firm’s purported distinguished reputation.

As evidence of the firm's reputation, the Petitioner submitted copies of internal documentation from his firm, online financial news articles about the company or quoting the company's principals, and a letter from a financial journalist. The financial news articles report that, between 2019 and 2021, the company won consecutive [] and [] awards for its investment funds. One article describes these annual awards, which Chinese financial publications sponsor, as the "Oscars of the [Chinese] public fund industry." The financial journalist stated that less than 1% of the 9,000 private investment fund managers in China have received a [] award.

The Director did not find the firm's awards indicative of a distinguished reputation. Based on the extensive publicity they received in China, however, the awards lend prestige to the Petitioner's firm. *See 6 USCIS Policy Manual F.(2)(B)(1)* (identifying media coverage as a relevant factor in determining whether an organization has a distinguished reputation). Also, although the firm is less than 10 years old, it has grown rapidly. The record further indicates that the company's competitors have tried to copy its successful investment approach. A preponderance of the evidence therefore demonstrates that the Petitioner's firm has a distinguished reputation. *See Victorov v. Barr*, No. CV 19-6948-GW-JPRx, 2020 WL 3213788, *9 (C.D. Cal. Apr. 9, 2020) (focusing on whether an organization with a purported distinguished reputation "has achieved any measurable success"). Thus, we will withdraw the Director's contrary finding.

C. Remand

To establish extraordinary ability, the Petitioner has met at least three initial evidentiary criteria. We therefore need not consider the purported evidence of his commandment of a high salary. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

USCIS must now make a final merits determination on the Petitioner's filing. *See Kazarian*, 596 F.3d at 1119-20; *see generally 6 USCIS Policy Manual F.(2)(B)*. The Director did not make such a finding. Rather than decide the issue in the first instance, we will remand the matter.

On remand, the Director must determine whether the Petitioner has sustained national or international acclaim and received recognition of his achievements in his field, identifying him as one of that small percentage who has risen to the field's very top. *See generally 6 USCIS Policy Manual F.(2)(B)(2)*. The Director should consider any potentially relevant evidence of record, even it does not fit one of the regulatory criteria or was not presented as comparable evidence. *Id.* The petition's approval or denial should stem from the evidence's type and quality. *Id.*

III. CONCLUSION

The Petitioner has met the minimum number of initial evidentiary criteria to establish extraordinary ability. USCIS must now make a final merits determination.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.